

Claims 1-12 were provisionally rejected for obviousness-type double patenting over claims 1-2, 5, 8-9 of co-pending US Appln. 10/056,923. Applicants agree to supply a Terminal Disclaimer over the co-pending application upon indication from the Examiner that the present claims would otherwise be allowable. The undersigned attorney can be reached by telephone in the event a Terminal Disclaimer becomes time sensitive for receipt thereof.

Claims 1-12 were rejected under 35 U.S.C. § 103(a) as unpatentable over Williams (US Patent 5,422,112) in view of Loffler et al. (InCosmetics, Dusseldorf) in view of Beerse et al. (US Patent 6,294,186). Applicants traverse this rejection.

Williams was cited for disclosing thickened cosmetic compositions comprising xanthan gum, alpha-hydroxy carboxylic acids and a cosmetically acceptable carrier at low pH. The reference lacks mention of any taurate copolymers.

Loffler et al. teaches taurates, particularly ammonium acryloyldimethyltaurate/vinyl pyrrolidone as thickeners for emulsions.

Beerse et al. was said to disclose ammonium acryloyldimethyltaurate/vinyl pyrrolidone, xanthan gum and synthetic clay thickeners for use in cosmetic compositions.

Based on these references, the Examiner considered it obvious to add the ammonium acryloyldimethyltaurate/vinyl pyrrolidone, taught by Loffler et al., into the composition of Williams because Beerse et al. teach ammonium acryloyldimethyltaurate/vinyl pyrrolidone, inorganic thickeners, and xanthan gum.

Herewith provided is a Declaration Under Rule 132 demonstrating the unobvious nature of the present invention. A series of four lotions were prepared. These were identical formulas except for the following differences. Sample 29A included xanthan gum; Sample 29B inserted Aristoflex AVC® (taurate polymer) in place of xanthan gum; Sample 29C combined Sepigel 305® polyacrylamide with xanthan gum; and Sample 29D representing the present invention combined Aristoflex AVC® and xanthan gum. Only Sample 29D survived three months of a storage stability test. The other three formulas exhibited phase separation. No doubt the Examiner must appreciate that it is a development chemist's nightmare when a formula separates. These results were unexpected.

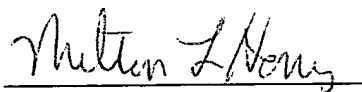
Williams teaches the essential need for a polyacrylamide (Sepigel® 305). See column 2, lines 33-37. Loffler et al. describes Aristoflex® AVC (taurate polymer) as a useful thickener for systems with pH range of 4 to 9. However, there is no disclosure that Aristoflex® AVC in combination with a polysaccharide would provide for prolonged storage stability, especially in alpha-hydroxycarboxylic acid (AHA) systems. There would be no incentive to therefore replace Sepigel® polyacrylamides with Aristoflex® taurate polymers in the xanthan/AHA environment of Williams. Aristoflex® (taurate polymers) would be just one of many possible Sepigel® substitutes. Nothing particularly special is disclosed about taurate polymers that would give incentive for Sepigel® replacement.

Beerse et al. has an Example 3 (column 48) describing a hand sanitizer formulated with Aristoflex® AVC and xanthan gum at pH 3. No alpha-hydroxycarboxylic acid is present in that Example. Adjacent formulas replace the Aristoflex® with Sepigel® 305 (Example 2) and hydroxypropyl cellulose (Example 1). All of the

aforementioned Examples are reported at column 49 (lines 24-29) to provide good anti-viral and anti-bacterial efficacy. No comment is provided with respect to improved storage stability. No matter how excellent a product may function on the skin, absent adequate storage stability other performance properties would be irrelevant. In fact, Beerse et al. provides no incentive or teaching that Aristoflex® (taurate polymer) would show any benefit over Sepigel® (polyacrylamide) or Klucel HF (hydroxypropyl cellulose).

In view of the foregoing Declaration and comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



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